U.S.
APR 28 2010

No. 09-1028

IN THE

Supreme Court of the United States

ROBERT A. CLIFFORD,

Petitioner,

v.

DAVID N. MISSNER,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO THE APPELLATE COURT OF ILLINOIS, FIRST DISTRICT, THIRD DIVISION

BRIEF IN OPPOSITION

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QUESTIONS PRESENTED

I. Whether Petitioner preserved the First Amendment issues raised in the Petition in view of the statement of the Illinois Appellate Court, the state court of last resort here, that the "parties do not discuss whether the First Amendment applies under these circumstances and we decline to resolve the issue here."

II. Whether the First Amendment protects a trial attorney from defamation liability when the attorney issues false and defamatory press releases to the media about pleadings he caused to be filed in a civil case between private parties.

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INTRODUCTION

Petitioner raises First Amendment arguments that he did not make in the last state court to hear this case, the Illinois Appellate Court. The Supreme Court of Illinois declined to grant Petitioner a discretionary appeal. App. at 165a. The Illinois Appellate Court specifically stated in its opinion on rehearing that the "parties do not discuss whether the First Amendment applies under these circumstances and we decline to resolve the issue here." App. at 32a. Petitioner did litigate below common law defamation privileges and agency issues. App. at 15a-30a. When he failed to prevail on those state law defamation and tort issues, he attempted to argue First Amendment issues for the first time in his Petition for Rehearing in the state court, which attempt was rejected. Respondent therefore contends that Petitioner did not preserve for review in this Court the First Amendment issues presented in the Petition for a Writ of Certiorari.

Petitioner, an Illinois trial attorney, claims in his Petition the First Amendment right to issue press statements about an amended pleading he caused to be filed by his law firm in a pending civil case between private parties. According to Petitioner, his press statements did not jeopardize the court system nor exceed the First Amendment rights of the press or public. But Petitioner fails to mention that his press statements did jeopardize the Respondent, who is also an attorney. Respondent, David N. Missner, was a bankruptcy lawyer in Chicago, and was a partner at the DLA Piper law firm, when he became a defendant in a lawsuit brought by Michael Ficaro, Petitioner's client.

Petitioner's law firm filed an amended complaint on behalf of Ficaro in that case. Petitioner then sent his press statement to the Chicago Tribune and the Chicago Daily Law Bulletin, with a file stamped copy of that amended complaint in the Ficaro case. The press statement, on its subject line, contained the bold heading quoted below:

"**Statement of Robert Clifford on Ficaro.**"

That press statement referred to the then recently filed amended complaint which accompanied the press statement, and stated that "one or more of the defendants" in the Ficaro case, which included the Respondent, "forged the signature of an ex-FBI agent to a fictitious, created, false and untrue affidavit," which affidavit, according to Petitioner's press statement, "was intended to extort Ficaro and his law firm into settling the litigation by selling out their clients."

Respondent alleged below that the affidavit of the ex-FBI agent was created by another law firm, not Respondent or his law firm, before Respondent became involved in the matter. Respondent also contended that the affidavit was not forged, and was in fact signed by the ex-FBI agent because it was truthful, which facts were testified to at deposition by the affiant. App. at 45a-46a. The forgery allegations against Respondent were later withdrawn when Petitioner caused another amended complaint to be filed in the Ficaro case without those allegations. *Id.*

Therefore, Petitioner is asking this Court to give First Amendment protection to a false and defamatory

press statement about an amended pleading that he caused to be filed, and then later withdrew, in the Ficaro case. It should go without saying that accusing a lawyer of forging an affidavit is not the expression of a constitutionally protected opinion. Either the lawyer forged the affidavit or not. In this case forgery was a false accusation of fact. Worse yet, that accusation and that amended pleading were later withdrawn in the Ficaro litigation, after the contents of Petitioner's false and defamatory press release had already hit the Chicago papers.

That is why Petitioner's contention that there is no countervailing state interest is also wrong. The interest to be protected here is the reputation of parties to civil litigation who are falsely accused in civil pleadings that are privileged when filed in the courthouse, but not privileged when disseminated to the media with a press statement or press release. The technique used here, if granted constitutional protection by this Court, has the potential to give trial attorneys the unfettered weapon of character assassination in the media via the use of the unproven allegations of a complaint or amended complaint drafted by law firms such as Petitioner's law firm. Press statements accompanied by such pleadings give the trial lawyer a whip to flog the opposing party in the media during the pendency of civil cases.

Petitioner's claim that he cannot "zealously represent" his clients in court, without using such a whip in the media, cannot be taken seriously. Petitioner's "zealously represent" argument brings to mind Justice Cardozo's observation that the very statement of such a contention constitutes its own refutation. Is Petitioner

suggesting to this Court that a lawyer must disseminate press statements or press releases to the media in order to "zealously represent" a client in a courtroom?

Petitioner's further argument that he was merely repeating in the press statement what was already in the public record begs the question. The only reason the amended complaint in this case was in the public record was because Petitioner caused it to be filed there. Petitioner's follow-up transmittal of that amended complaint to the media, with Petitioner's press statement, is what triggered the "self-conferral" exception under Restatement (Second) of Torts § 611, Comment c (1977). Petitioner's claim that he should have the constitutional right or privilege to report on his firm's own filed pleading rings hollow when one considers that the ex-FBI agent testified at deposition that the affidavit was not forged and was accurate. App. at 45a-46a.

Petitioner asks this Court to invalidate, on First Amendment grounds, the Illinois Appellate Court's application of that "self-conferral" exception under Restatement (Second) of Torts § 611, Comment c (1977). If this Court does what Petitioner asks, then lawyers will be able to send to the media, with press statements, what they choose to plead in their filed pleadings, without incurring defamation liability for false and defamatory statements made to the media. The common law gave Petitioner the absolute privilege to file the amended complaint in the courthouse. Petitioner now wants this Court to create an absolute *constitutional* privilege to send what is filed in the courthouse to the

media with attorney press statements. There is no support in the First Amendment decisions of this Court for such a *constitutional* privilege.

STATEMENT OF THE CASE

Respondent Missner is a bankruptcy attorney. He was retained by Nicholas William Betzold, Jr. ("Betzold"), the CEO of Betzold Research & Trading, Inc. and Betzold Investment Group, Inc. (collectively, the "Betzold Companies"), companies he co-founded. Prior to Betzold retaining Missner, Betzold had been involved in a lengthy arbitration proceeding with three minority shareholders of the Betzold Companies that began in 2002. Betzold was represented at that arbitration by Kirkland & Ellis. Respondent Missner had no involvement as an attorney in that arbitration proceeding. App. at 2a-4a, 76a-77a.

After the result reached at the arbitration went against Betzold, his then attorneys, Kirkland & Ellis, obtained an affidavit from an ex-FBI agent regarding an alleged relationship or "common association" between the arbitrator and one of the attorneys for the minority shareholders at the arbitration, Michael Ficaro. That affidavit was submitted by the Kirkland & Ellis firm to the arbitration agency in an effort to change the result of the arbitration. When that submission was rejected, Betzold retained Missner to pursue a Chapter 11 bankruptcy proceeding, which proceeding was filed on August 2, 2004. Case No. 04 - 28474 (Bankr. N.D. Ill.) (the "Betzold Bankruptcy)"). Missner then attached and filed that affidavit that had been drafted and procured by Kirkland & Ellis to a Motion to Enforce the

Automatic Stay in the Betzold bankruptcy proceeding. App. at 2a-4a, 76a-77a.

One year after Missner had filed the Betzold bankruptcy, and after Missner pursued therein, as the debtor's bankruptcy attorney, the Motion to Enforce the Automatic Stay, Petitioner Clifford caused to be filed, in the Circuit Court of Cook County, a defamation lawsuit against Missner and others on behalf of Michael Ficaro, which case was entitled *Ficaro v. Betzold, et al.*, case no. 05 L 8474 (hereinafter referred to as the "Ficaro case"). The Ficaro case alleged that Missner's filing of the affidavit in the Betzold bankruptcy defamed Ficaro. Clifford, however, as Ficaro's lawyer in the Ficaro case, did not name Kirkland & Ellis as a party defendant in the Ficaro case, even though that law firm had drafted and procured the affidavit that Ficaro claimed had defamed him. App. at 6a-8a, 36a-47a; App. at 2a-4a, 76a-77a.

After the initial complaint was filed in the Ficaro case, a Verified Amended Complaint was filed in the Ficaro case. On December 6, 2005, Pamela Menaker, a media and public relations expert employed by Clifford, e-mailed a press release or press statement to a reporter named Higgins at the Chicago Tribune regarding that amended pleading in the Ficaro case. A similar press statement was issued to the Chicago Daily Law Bulletin. At the same time that those press statements were issued to those media outlets, Ms. Menaker also e-mailed a copy of the case caption, and e-mailed a completed version of that Verified Amended Complaint in the Ficaro case to the news reporters who received

the press statement. App. at 6a-8a, 36a-47a; App. at 2a-4a, 76a-77a. The press statement, on its subject line, contains the bold heading quoted below:

"**Statement of Robert Clifford on Ficaro.**"

That press release or press statement stated that "one or more of the defendants" in the Ficaro case "forged the signature of an ex-FBI agent to a fictitious created false and untrue affidavit, which affidavit, according to the press statement, "was intended to extort Ficaro and his law firm into settling the litigation by selling out their clients." App. at 76a-77a.

Following the issuance of those press statements about him, and the incorporation of those press releases in newspaper articles in the Chicago Tribune and the Chicago Daily Law Bulletin, Respondent filed this libel *per se* lawsuit against Petitioner Clifford. Missner alleged in this case that Petitioner Clifford defamed him by stating and asserting in press releases and press statements, as a fact, that Missner forged an affidavit of a veteran ex-FBI agent in an effort to "extort" a settlement for Missner's client, Betzold. Missner further alleged that the FBI agent's affidavit was not forged. Indeed, that affidavit was not even prepared by the plaintiff. It was drafted and procured by Kirkland & Ellis, and signed by the ex-FBI agent. Yet defendant Petitioner Clifford told the media otherwise via his press releases. App. at 76a-77a.

Petitioner Clifford filed a combined motion to dismiss the Complaint at bar, and also filed a Motion for Summary Judgment limited to the issue of agency, *i.e.*,

he claimed that he did not issue the press statement. Rather, he claimed that his law firm, Clifford Law Offices, issued the press release. Respondent argued that both motions were defective and should be denied. The Circuit Court accepted, *inter alia*, respondent's arguments, denied Clifford's motion for summary judgment and ruled that Clifford's motion to dismiss "was improper." App. at 75a.

A. *Deposition Testimony Submitted with Summary Judgment Briefing.*

Pamela Mennaker, at the time of the events in question, was employed by Clifford Law Offices as an attorney and media relations specialist. Ms. Mennaker has experience working in the media field, and she holds a Masters' degree in Journalism (R. Vol. 2, p C9). Since the year 2000, she has spent 95 - 99% of her time on media and public relations at the Clifford firm. App. at 81a-83a.

Ms. Mennaker issued a press statement as an individual statement of defendant Clifford, and not as a statement of Clifford Law Offices, P. C., because the media insists upon and requires a statement from an individual person, not an entity. She knew that, in order to issue a press statement to the media, that the media would accept, it had to be from Clifford individually, not the law firm (R. Vol. 2, p. C428). Since the issuance of that press statement, no one has told Ms. Menaker that she should not have issued the statement. Nor did defendant Clifford say that the press statement should not have been issued (R. Vol. 2, pp. C429, C442) (R. Vol. 2, pp. C387, C406-407). Ms. Mennaker issues 30-60 such

press statements per year. (R. Vol. 2, p. C429). And when she issues press statements they say "Statement of Robert Clifford (R. Vol. 2, p. C432). Both the Ficaro case caption, and the entire Verified Amended Complaint, were e-mailed by Ms. Mennaker to reporter Higgins either before, or at the same time of, the transmittal of the press statement on that newly filed pleading in the *Ficaro* case. (R. Vol. 2, pp. C435-437, C440-442). App. at 81a-83a.

Defendant Robert A. Clifford testified in his deposition that he is the sole shareholder of Clifford Law Offices, P.C. (R. Vol. 2, pp. C368-C369). According to defendant Clifford, Ms. Mennaker's principal function was media relations and assisting with firm marketing. (R. Vol. 2, pp. C370-C371). But he did not discuss media issues with Ms. Mennaker in terms of her authority to speak for him. (R. Vol. 2, pp. C372-C373). App. at 78a-81a.

The press statement in the Ficaro case was event-related, because the Verified Amended Complaint was filed in that case. (R. Vol. 2, p. C375). Mr. Clifford acknowledged that he has the authority to prevent pleadings from being filed in his name if he does not agree with the pleading. (R. Vol. 2, p. 377). Prior to the filing of the Ficaro Verified Amended Complaint, defendant Clifford was involved in meetings and discussions regarding the Morocco affidavit, and the basing of a claim in the Ficaro case on that affidavit. And after those claims were filed based upon that affidavit, defendant Clifford was involved in discussions regarding the defense of that pleading, the Verified

Amended Complaint, against the motions to dismiss that were brought by the defendants in the Ficaro case. (R. Vol. 2, pp. C380, C393, C395, C401-C402).

Mr. Clifford further testified that Ms. Mennaker had the authority to send out press releases such as the one in question because, as a matter of practice and course of dealing, any press release had to be in Mr. Clifford's name individually (R. Vol. 2, p. C391). And Mr. Clifford acknowledged that the media outlets in question, the Tribune and the Law Bulletin, accepted the press statement because they believed that Ms. Mennaker was speaking with authority. (R. Vol. 2, pp. C405-C407). App. at 78a-81a.

Respondent Missner argued below that Clifford could not invoke the fair report privilege in this defamation case because he caused the original publication, *i.e.*, the filing of the Verified Amended Complaint, and then caused the press release to be issued to the media about that published pleading. Missner contended that, under such circumstances, allowing Clifford to invoke that privilege would amount to allowing Clifford to confer the privilege on himself under the Illinois Appellate Court's decision in *Kurczaba v. Pollock*, 318 Ill.App.3d 686, 708 (1st Dist. 2000), and under the Restatement, *Restatement (Second) of Torts*, § 611, comment *c*, at 299 (1977), which provides that:

> "A person cannot confer this privilege upon himself by making the original ***defamatory publication*** himself and then reporting to other people what he had stated.

> ***This is true whether the original publication was privileged or not.***" (emphasis added)

But the circuit court judge, after denying both the defendant's motion to dismiss and the defendant's motion for summary judgment, decided herself, *sua sponte*, to convert Clifford's defective motion to dismiss into a second motion for summary judgment, and granted that converted motion on the theory, first advanced by the judge herself, and therefore not argued by Clifford, that under the fair report privilege, the allegations of the Verified Amended Complaint in the Ficaro case were the verified statements of the client, Ficaro, not Clifford. App. 75a-102a. On that basis, the circuit court entered summary judgment for the defendant.

The Appellate Court reversed that summary judgment. *Missner v. Clifford*, 393 Ill.App.3d 751, 914 N.E.2d 540 (1st Dist. 2009) (Appendix A). That state court agreed with Respondent Missner that there were questions of fact as to whether Petitioner could confer a privilege on himself by causing or participating in the filing of the amended complaint, and then sending it to the media with his press statement. The Appellate Court also reversed the circuit court judge's resolution, as a matter of law, of the agency issues, ruling there were fact questions for a jury on agency.

REASONS FOR DENYING THE PETITION

The decision of the Illinois Appellate Court does not conflict with any decision of this Court on the First Amendment issues raised by Petitioner. This Court has never held or implied that a trial attorney has a First Amendment right or privilege to issue false and defamatory press statements about pleadings the attorney caused to be filed in pending civil litigation. Nor does the decision of the Illinois Appellate Court in this case conflict with any other state court of last resort or any United States Court of Appeals on the First Amendment issues raised by Petitioner. Indeed, as noted above, the Illinois Appellate Court did not decide any question of federal law in its opinion. Its decision was limited to state law defamation cases. App. at 32a-35a. Accordingly, Petitioner has not carried his burden of demonstrating "compelling reasons" for the Petition to be granted. Sup.Ct.R. 10.

I. Petitioner Did Not Preserve in the Illinois Appellate Court The First Amendment Issues Raised in the Petition.

Petitioner claims that his constitutional arguments in the Circuit Court of Cook County preserved those arguments for appeal to this Court, even though Petitioner did not raise those arguments on appeal in the Illinois Appellate Court. The two record citations contained in the Petition refer to trial court briefs filed in the Circuit Court. There are no record citations to briefs filed in the Illinois Appellate Court.

Petitioner cites *Lebron v. National R.R. Passenger Corp.*, 513 U.S. 374, 379 (1995), on this issue, where this Court held that: Our practice "permit[s] review of an issue not pressed so long as it has been passed upon. . . ." As shown herein, Petitioner did not press the First Amendment issues on appeal, and the Illinois Appellate Court refused to pass upon those issues. Indeed, in the recent case of *Citizens United v. Federal Election Com'n*, __ U.S. __, 130 S.Ct. 876 (2010), this Court considered a question because "it was addressed by the court below." As quoted above, the Illinois Appellate Court refused to address the First Amendment issues Petitioner attempts to present to this Court. App. at 32a.

Petitioner also cites *Bose Corporation v. Consumers Union of United States, Inc.*, 466 U.S. 485 (1984), for the proposition that this Court should make an independent examination "of the whole record" to ensure that the judgment below does not intrude on freedom of expression. But Petitioner has not submitted the whole record with his Petition. Rather, Petitioner has omitted the summary judgment exhibits and the appellate briefs filed in the Illinois Appellate Court.

II. Trial Lawyers Do Not Have a First Amendment Right To Issue Press Statements in Furtherance of Zealous Representation.

Petitioner cites to several cases from this Court in an effort to create, by analogy, a First Amendment right for trial lawyers to issue press statements in the name of "zealous advocacy." Petitioner does not explain how a judge or a jury could or would assess a press statement

in a courtroom. Instead, citing *Cox Broadcasting Co. v. Cohn*, 420 U.S. 469, 495 (1975), Petitioner claims that he has published "truthful information contained in official court records open to public inspection." At the outset, it must be noted that Petitioner does not argue in his Petition that the factual accusations made against Respondent were truthful. Given the ex-FBI agent's testimony, he knows they are not. Petitioner argues instead that he truthfully reported to the media what he had caused to be alleged and placed in the official record in the first place. But that does not constitute "truthful information." The additional problems with this argument are that Petitioner is not a news outlet reporting on court proceedings. Rather, he is the litigation lawyer who caused the "official court record" to be created and filed in the first place, and then he "reported" on his own filing by sending it to the media with a press statement or press release.

Without the "self-conferral exception," Petitioner would be immunized from defamation liability under the absolute fair report privilege as long as his press statement summarized his own amended pleading. Petitioner laments that a journalist reporting on a court filing would not be subjected to liability. Of course the journalist did not create the court filing and then report on his or her own handiwork. That is surely a distinction with a difference. This Court has held that the role a lawyer plays in a case is very important to First Amendment analysis. Thus, a lawyer soliciting personal injury clients, *Florida Bar v. Went for It, Inc.*, 515 U.S. 618 (1995), is subjected to a different First Amendment analysis than a lawyer soliciting civil rights claims as a form of political expression, *In re Primus*, 436 U.S. 412 (1978).

The evidence adduced below demonstrated that Petitioner has a full-time attorney/public relations employee devoted to dealing with the media, Pamela Menaker. She testified she devotes all of her time to dealing with the media. Petitioner has given this Court no facts from which the Court could determine that Petitioner's trial practice, and Petitioner's public relations operation, are for the purposes set out in *In re Primus*, 436 U.S. 412 (1978). The opposite appears to be true based upon the appellate opinion in the Ficaro case. App. at 36a-62a. Nor did the Ficaro case involve a criminal case where "governmental misconduct" is at issue and the public has a need to know about police corruption and the prosecutorial judgment of a prosecutor. *Gentile v. State Bar of Nevada*, 501 U.S. 1030 (1991).

The Ficaro case was a civil case between lawyers. Ficaro was himself suing for defamation, claiming that the affidavit of the ex-FBI agent defamed him. App. B and C. He and his lawyer, Petitioner Clifford, injected their factual misstatements about Respondent into the Chicago press before the ex-FBI agent was deposed. It was one thing to file those unproven accusations in court in an amended pleading. An absolute privilege protected that filing from defamation liability. But it was quite another thing to disseminate those factual accusations to the media. No such absolute privilege protected that publication. Petitioner offers no explanation for doing that, and refrains from any comment as to the effect that a public forgery accusation had on Respondent's legal career at a major law firm in Chicago. Petitioner limits his remarks to the so-called lack of prejudice the accusations had on the Ficaro case

itself. But that case was resolved pursuant to the absolute attorney litigation privilege for filings made in court.

Petitioner raises the rulings of other state courts under the self-conferral exception and other common law defamation privileges. But the authorities are mixed on those state law issues. The cases in other States that have faced this attorney press release issue do not grant lawyers an unlimited, absolute privilege to issue press releases to the public about pending civil lawsuits. Rather, the weight of authority is against an absolute privilege. Thus, the District Court, in *Medical Informatics Engineering, Inc. v. Orthopaedics Northeast, P.C.*, 458 F. Supp. 2d 716, 723-724 (N.D. Ind. 2006), collected and cited what that court referred to as "the overwhelming authority" against allowing an absolute privilege to attorneys to issue press releases and press statements about pending cases. Similarly, a law review article, Richmond, *The Lawyer's Litigation Privilege*, 31 Am. J. Trial Advoc. 281 (2007), collected the cases and concluded that: ". . . lawyers' communications with the press are seldom held to be privileged." While Petitioner cites Pennsylvania cases on this issue, the Supreme Court of Pennsylvania, in *Bochetto v. Gibson*, 580 Pa. 245, 252-253, 860 A.2d 67, 72 (2004), rejected an absolute privilege claim by an attorney, and reversed a summary judgment entered in favor of that attorney who faxed a complaint to a reporter, even though the initial filing of the complaint in court was privileged:

> "... ***However, the fact that the privilege protects this first publication does not***

> ***necessarily mean that it also protects Gibson's later act of republishing the complaint to [the reporter].*** See *Pawlowski v. Smorto*, 403 Pa. Super. 71, 588 A.2d 36, 41 n.3 (Pa. Super. 1991) ("Even an absolute privilege may be lost through overpublication . . . . In the case of the judicial privilege, overpublication may be found where a statement initially privileged because made in the regular course of judicial proceedings is later republished to another audience outside of the proceedings."); *Barto v. Felix*, 250 Pa. Super. 262, 378 A.2d 927, 930 (Pa. Super. 1977) (. . . attorney's remarks concerning contents of brief during press conference were not likewise protected by privilege)."

580 Pa. at 252-253 (emphasis added).

Petitioner reiterates the "truthful information" standard from *Cox v. Cohn* throughout his Petition. But Petitioner ignores the now established fact that his press statement did not contain "truthful information" on the issue of Respondent's alleged forgery. Nor did it contain "truthful information" on the issue whether Respondent was using a "forged affidavit" for purposes of extortion. The affidavit was not forged and it was truthful. App. at 45a-46a. Quoting language from cases decided by this Court cannot change the facts of this case.

III. Press Statements by Trial Lawyers That Repeat Their Own False Allegations in Pleadings They Have Filed in Court Are Subject to Defamation Liability.

In an ironic twist, Petitioner argues that his press statement is protected by the First Amendment because no reasonable person would believe it was anything other than lawyer talk. Petitioner goes on to argue that his press statement was issued by a law firm and it merely repeated the unproven allegations in a client's complaint (Pet. at p. 27). There are several problems with these arguments. First, the press statement was not issued by a law firm. As the above-referenced deposition testimony showed, the Chicago media would not accept a press statement issued by a law firm. It had to be issued by an individual lawyer, and this press statement was no exception. It was issued by Petitioner Clifford. Second, it is beyond rank speculation to argue that the public would not believe Petitioner's statements in the press statement were factually based. It is no secret that Petitioner is a past President of the ABA Section of Litigation and one of the best known trial lawyers in Chicago and the United States. It is odd for Petitioner to argue that his press statements have no credence with the public and stand on the same footing with press statements issued by any other lawyer. Then why issue them? Petitioner's arguments as to whether a reasonable reader would believe his press statement should be made to a jury, after the jury hears the evidence showing that Petitioner is not some "litigator" who goes to court occasionally. It is equally odd that Respondent should be the one to point out that Petitioner is not in the same league with every other trial or litigation lawyer.

Petitioner fails to realize that a jury could find that his press statement, in his own name, meant something more to the people in the legal community with whom Respondent regularly interacted and did business, and meant something more to the public who had seen Petitioner on television and read about him in the media: since Bob Clifford was making the accusation against Respondent, it must be true, because Bob Clifford would never (or so many thought in Chicago) accuse another lawyer of forging an affidavit unless it was true.

CONCLUSION

For each and all of the foregoing reasons, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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